

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 861

Introduced by Thompson, 14

Read first time January 20, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to Sex Offender Registration Act; to amend
2 sections 29-4002 to 29-4007 and 29-4010, Revised Statutes
3 Supplement, 1998; to change registration eligibility
4 requirements and records; to provide for lifetime
5 registration for certain offenses; to harmonize
6 provisions; to repeal the original sections; and to
7 declare an emergency.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-4002, Revised Statutes Supplement,
2 1998, is amended to read:

3 29-4002. The Legislature finds that sex offenders
4 present a high risk to commit repeat offenses. The Legislature
5 further finds that efforts of law enforcement agencies to protect
6 their communities, conduct investigations, and quickly apprehend
7 sex offenders are impaired by the lack of available information
8 about individuals who have pleaded guilty to or have been found
9 guilty of sex offenses and who live, work, or attend school in
10 their jurisdiction. The Legislature further finds that state
11 policy should assist efforts of local law enforcement agencies to
12 protect their communities by requiring sex offenders to register
13 with local law enforcement agencies as provided by the Sex Offender
14 Registration Act.

15 Sec. 2. Section 29-4003, Revised Statutes Supplement,
16 1998, is amended to read:

17 29-4003. (1) The Sex Offender Registration Act shall
18 apply to any person who on or after January 1, 1997:

19 (a) Pleads guilty to or is found guilty of:

20 (i) Kidnapping of a minor pursuant to section 28-313,
21 except when the person is the parent of the minor and was not
22 convicted of any other offense in this section;

23 (ii) False imprisonment of a minor pursuant to section
24 28-314 or 28-315;

25 (iii) Sexual assault pursuant to section 28-319 or
26 28-320;

27 (iv) Sexual assault of a child pursuant to section
28 28-320.01;

1 (v) Sexual assault of a vulnerable adult pursuant to
2 subdivision (1)(c) of section 28-386;

3 (vi) Incest of a minor pursuant to section 28-703;

4 (vii) Pandering of a minor pursuant to section 28-802;

5 (viii) Visual depiction of sexually explicit conduct of a
6 child pursuant to section 28-1463.03 or 28-1463.05; or

7 (ix) Attempt, solicitation, or conspiracy to commit an
8 offense listed in subdivisions (1)(a)(i) through (1)(a)(viii) of
9 this section;

10 (b) Enters the state and has pleaded guilty to or has
11 been found guilty of any offense in another state, territory,
12 commonwealth, or other jurisdiction of the United States that is
13 substantially equivalent to the offenses listed in subdivision
14 (1)(a) of this section; or

15 (c) Is incarcerated in a jail, a penal facility, or any
16 other public or private institution or is under probation or parole
17 as a result of pleading guilty to or being found guilty of an
18 offense listed in subdivisions (1)(a) and (b) of this section prior
19 to January 1, 1997.

20 (2) In addition to the conditions set forth in subsection
21 (1) of this act, the act shall also apply to any person who on or
22 after the effective date of this act:

23 (a) Pleads guilty or is found guilty of:

24 (i) Homicide pursuant to section 28-303, 28-304, or
25 28-305, if such offense involved a sexual component;

26 (ii) Unlawful intrusion pursuant to section 28-311.08;

27 (iii) Public indecency pursuant to section 28-806; or

28 (iv) Attempt, solicitation, or conspiracy to commit an

1 offense listed in subdivisions (2)(a)(i) through (2)(a)(iii) of
2 this section;

3 (b) Has pleaded guilty to or has been found guilty of an
4 offense listed in subdivision (1)(a) or (2)(a) of this section in
5 this state and reenters the state after having been a resident of
6 another state, territory, commonwealth, or other jurisdiction of
7 the United States;

8 (c) Has pleaded guilty to or has been convicted by a
9 federal court, or has pleaded guilty to or has been sentenced by a
10 court martial, for a federal or military offense that is
11 substantially equivalent to the offenses listed in subdivision
12 (1)(a) or (2)(a) of this section; or

13 (d) Is incarcerated in a jail, penal facility, or other
14 public or private institution or is under probation or parole as a
15 result of pleading guilty to or being found guilty of an offense
16 listed in subdivisions (2)(a) through (2)(c) of this section prior
17 to the effective date of this act.

18 (3) The act shall apply to any person who pleads guilty
19 to or is found guilty of any offense not listed in subdivision
20 (1)(a) or (2)(a) of this section if the sentencing court determines
21 that the underlying criminal behavior was sexual in nature or
22 sexually motivated pursuant to subsection (2) of section 29-4005.
23 The registration requirements of the act shall not apply to any
24 person while he or she is incarcerated in a jail, a penal facility,
25 or any other public or private institution.

26 ~~(3)~~ (4) In the case of violations of sections 28-313,
27 28-314, or 28-315, the sentencing court shall determine at the time
28 of sentencing, in light of all the facts, whether the convicted

1 person shall be subject to the Sex Offender Registration Act.

2 Sec. 3. Section 29-4004, Revised Statutes Supplement,
3 1998, is amended to read:

4 29-4004. (1) Any person who becomes subject to the Sex
5 Offender Registration Act shall register with the sheriff of ~~the~~
6 each county in which the person resides or is temporarily
7 domiciled, is employed or carries on a vocation, or attends school
8 within five working days of becoming subject to the act. For
9 purposes of this subsection:

10 (a) Attends school means enrollment in any educational
11 institution in this state on a full-time or part-time basis; and

12 (b) Is employed or carries on a vocation means any
13 full-time or part-time employment, with or without compensation,
14 which lasts for a duration of more than fourteen days or for an
15 aggregate period exceeding thirty days in a calendar year.

16 (2) If there is an address change for a person required
17 to register, the person shall inform the sheriff with whom that
18 person last registered of the new address, in writing, within five
19 working days of the change. The sheriff shall forward this
20 information to the sheriff in the new jurisdiction where the person
21 is relocating and would be required to register within five working
22 days of the receipt of the new address.

23 (3) Each sheriff shall forward all written information,
24 photographs, and fingerprints obtained pursuant to the act to the
25 Nebraska State Patrol within five working days. The Nebraska State
26 Patrol shall maintain a central registry of sex offenders required
27 to register under the act.

28 Sec. 4. Section 29-4005, Revised Statutes Supplement,

1 1998, is amended to read:

2 29-4005. (1) Except as provided in subsection ~~(2)~~ (3) of
3 this section, any person to whom the Sex Offender Registration Act
4 applies shall be required to register during any period of
5 probation or parole and shall continue to comply with the act for a
6 period of ten years after the date of discharge from probation,
7 parole, or release from incarceration, whichever date is most
8 recent. The registration requirements of the act shall not apply
9 to any person while he or she is incarcerated in a jail, a penal
10 facility, or any other public or private institution.

11 (2) Prior to sentencing for an offense described in
12 subsection (3) of section 29-4003, the county attorney shall file
13 such petition in every case in which the charges of a criminal
14 complaint, alleging an offense listed in subdivision (1)(a) or
15 (2)(a) of section 29-4003, were reduced as the result of a plea
16 bargain. Any person determined by the court to have engaged in
17 underlying criminal behavior which is sexual in nature or sexually
18 motivated shall comply with the registration requirements set forth
19 in subsection (1) of this section.

20 ~~(2)(a)~~ (3)(a) When sentencing a person for ~~an~~ a
21 registrable offense listed in subdivision (1)(a) of under section
22 29-4003, a court may also determine if the person is a sexually
23 violent offender. When making its determination the court shall
24 consider evidence from experts in the field of the behavior and
25 treatment of sexual offenders.

26 (b) If the sentencing court determines that a person is a
27 sexually violent offender, the person shall be required to register
28 under the Sex Offender Registration Act until the sentencing court

1 determines that the person no longer suffers from a mental
2 abnormality or personality disorder that makes the person likely to
3 engage in a sexually violent offense. Such determination shall not
4 be made until ten years after the date of discharge from probation,
5 parole, or release from incarceration, whichever date is most
6 recent.

7 (c) If the sentencing court determines that a person is a
8 sexually violent offender and has been convicted of an aggravated
9 offense, the person shall be required to register under the act for
10 the period of his or her lifetime after the date of discharge from
11 probation, parole, or release from incarceration, whichever date is
12 most recent.

13 (d) In addition to complying with the annual verification
14 requirements in section 29-4006, a person determined to be a
15 sexually violent offender shall verify the registration information
16 every three months after the initial registration date.

17 ~~(d)~~ (e) For purposes of this section:

18 (i) Aggravated offense means any registerable offense
19 under section 29-4003 which involves the penetration of (A) a
20 victim of any age through the use of force of the threat of serious
21 violence or (B) a victim under the age of twelve;

22 (ii) Mental abnormality means a congenital or acquired
23 condition of a person that affects the emotional or volitional
24 capacity of the person in a manner that predisposes that person to
25 the commission of a criminal sexual act to a degree that makes the
26 person a menace to the health and safety of other persons; and

27 ~~(ii)~~ (iii) Sexually violent offender means a person who
28 has been convicted of one or more registrable offenses under

1 offenses listed in subdivision (1)(a) of section 29-4003 and who
2 suffers from a mental abnormality or personality disorder that
3 makes the person likely to engage in sexually violent offenses
4 directed at a stranger, or at a person with whom a relationship has
5 been established or promoted, for the primary purpose of
6 victimization.

7 Sec. 5. Section 29-4006, Revised Statutes Supplement,
8 1998, is amended to read:

9 29-4006. (1) Registration information required by the
10 Sex Offender Registration Act shall be in a form approved by the
11 Nebraska State Patrol and shall include the following information:

12 (a) The name and all aliases which the person has used or
13 under which the person has been known;

14 (b) A complete description of the person, including date
15 of birth, social security number, photographs, and fingerprints;

16 (c) A listing of each registrable offense ~~listed in~~ under
17 section 29-4003 to which the person pleaded guilty or was found
18 guilty, the jurisdiction where each offense was committed, the
19 court in which the person pleaded guilty or was found guilty of
20 each offense, and the name under which the person pleaded guilty or
21 was found guilty of each offense;

22 (d) The name and location of each jail, penal facility,
23 or public or private institution to which the person was
24 incarcerated for each offense and the actual time served or
25 confined; and

26 (e) The address of the person's current residence, ~~and~~
27 place of employment or vocation, and any school he or she is
28 attending.

1 (2) For the duration of the registration period required
2 by the act, registration information shall be verified annually
3 within thirty days after the anniversary date of the person's
4 initial registration date. To properly verify, the following shall
5 occur:

6 (a) The Nebraska State Patrol shall mail a nonforwardable
7 verification form to the last-reported address of the person;

8 (b) The verification form shall be signed by the person
9 and state whether the ~~person still resides at the address~~ addresses
10 last reported to the patrol pursuant to subdivision (1)(e) are
11 still correct; and

12 (c) The person shall mail the verification form to the
13 patrol within ten days after receipt of the form.

14 (3) If the person fails to complete and mail the
15 verification form to the patrol within ten days after receipt of
16 the form, the person shall be in violation of this section unless
17 the person proves that ~~he or she has not changed his or her~~
18 ~~residence address~~ the addresses last reported in subdivision (1)(e)
19 are still correct.

20 (4) If the person falsifies the registration or
21 verification form, the person shall be in violation of this
22 section.

23 Sec. 6. Section 29-4007, Revised Statutes Supplement,
24 1998, is amended to read:

25 29-4007. (1) The court shall provide written
26 notification of the duty to register at the time of sentencing to
27 any defendant who has pleaded guilty or has been found guilty of ~~an~~
28 a registrable offense listed in subdivision (1)(a) of under section

1 29-4003. The written notification shall be signed by the defendant
2 and retained by the court. A copy of the notification shall be
3 provided to the county attorney and the defendant.

4 (2) The Department of Correctional Services shall provide
5 written notification of the duty to register pursuant to the Sex
6 Offender Registration Act to any person committed to its custody
7 for ~~an~~ a registrable offense listed in subdivision (1)(a) of under
8 section 29-4003 prior to the person's release from incarceration.
9 The written notification shall be signed by the person and retained
10 by the department. A copy of the notification shall be provided to
11 the person.

12 (3) The Department of Motor Vehicles shall cause written
13 notification of the duty to register to be provided on the
14 applications for a motor vehicle operator's license and for a
15 commercial driver's license.

16 (4) All written notification as provided in this section
17 shall be on a form prepared by the Attorney General.

18 Sec. 7. Section 29-4010, Revised Statutes Supplement,
19 1998, is amended to read:

20 29-4010. (1) ~~Any~~ Except as provided in subdivision
21 (3)(c) of section 29-4005, any person having a duty to register
22 under the Sex Offender Registration Act may file a petition with
23 the district court for an order to expunge the information.

24 (2) The petition shall be filed in the district court of
25 the county in which the petitioner was convicted of ~~an~~ a
26 registrable offense listed in under section 29-4003. If the
27 petitioner was convicted in another state, the petition shall be
28 filed in the district court of the county in which the petitioner

1 resides except that nonresidents may file in the district court of
2 the county in which the petitioner is employed or carries on a
3 vocation, attends school, or had a prior duty to register pursuant
4 to the act. The county attorney shall be named as the respondent
5 and shall be served with a copy of the petition.

6 (3) The court may grant the petition and issue an order
7 to expunge the information if the petitioner shows by clear and
8 convincing evidence that the (a) petitioner's duty to register has
9 expired, (b) petitioner does not have a criminal charge pending and
10 is not under criminal investigation for ~~an~~ a registrable offense
11 ~~listed in~~ under section 29-4003, and (c) petitioner is not a
12 substantial risk to commit another registrable offense ~~listed in~~
13 under section 29-4003.

14 Sec. 8. Original sections 29-4002 to 29-4007 and
15 29-4010, Revised Statutes Supplement, 1998, are repealed.

16 Sec. 9. Since an emergency exists, this act takes effect
17 when passed and approved according to law.